

MARCH 15TH, 1915.

STABLES v. UNITED GAS AND FUEL CO.

Negligence—Explosion of Natural Gas in Cellar of Dwelling-house—Escape from Underground Pipes of Gas Company—Break in Pipe—Cause of—Findings of Jury—Liability of Company.

Appeal by the defendant company from the judgment of KELLY, J., upon the findings of the jury at the trial at Hamilton, in favour of the plaintiff, in an action brought to recover damages for injury to the plaintiff and his property caused by an explosion, in the cellar of his dwelling-house, of natural gas which had escaped from the underground pipes of the defendant company, in Bellevue avenue, in the city of Hamilton.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

G. Lynch-Staunton, K.C., and C. V. Langs, for the appellant company.

W. A. Logie and T. B. McQuesten, for the plaintiff, the respondent.

F. R. Waddell, K.C., for the Corporation of the City of Hamilton, made a third party.

The judgment of the Court was delivered by MEREDITH, C.J.O.:— . . . It is not disputed by the appellant company that the gas which exploded had escaped into the respondent's residence from the appellant's pipes in Bellevue avenue; but the appellant disputes liability upon the ground that the escape was not due to any negligence upon its part.

The respondent sought to establish at the trial that the escape of the gas was due to the negligence of the appellant; and the acts of negligence relied on were . . . : (1) not having laid the pipe from which the gas escaped below the frost line; (2) not having used expansion joints to counteract the effect of the expansion and contraction of the pipe; (3) not having laid the pipe deep enough to prevent its being injured by heavy traffic passing over it; and (4) not having sufficiently inspected the pipes in Bellevue avenue after the explosion which had occurred in that street 10 days before the explosion in respect of which the respondent claims.